

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ERIC W. STRONG,

Petitioner,

v.

OPINION and ORDER

CHRISTOPHER BUESGEN,

21-cv-296-jdp

Respondent.

Habeas petitioner Eric Strong moves for leave to proceed in forma pauperis on appeal, Dkt. 51, and for reconsideration of my decision denying a certificate of appealability, Dkt. 52.

I have considered Strong's arguments in support of his motion for reconsideration, and I am not persuaded that my original opinion and order, Dkt. 49, is based on any legal error. Strong's motion for reconsideration does not make a "substantial showing of the denial of a constitutional right," 28 U.S.C. § 2253(c)(2), so I will deny his motion for reconsideration. Strong will have to ask the court of appeals for a certificate of appealability.

Strong's motion for leave to proceed in forma pauperis shows that he is unable to prepay the full appellate filing fee. 28 U.S.C. § 1915(a)(3). The standard for issuing a certificate of appealability is higher than the standard for granting leave to proceed in forma pauperis under 28 U.S.C. § 1915(a)(3). Section 1915 requires that I conclude only that the appeal is not taken in bad faith, which courts have interpreted to mean is not frivolous. *See Thomas v. Zatecky*, 712 F.3d 1004, 1006 (7th Cir. 2013). I conclude that the appeal is not frivolous, so the motion to proceed in forma pauperis on appeal, Dkt. 51, is GRANTED.

ORDER

IT IS ORDERED that:

1. Petitioner Eric W. Strong's motion for leave to proceed in forma pauperis on appeal, Dkt. 51, is GRANTED.
2. Strong's motion for reconsideration of the denial of a certificate of appealability, DKt. 52, is DENIED.

Entered December 15, 2023.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge